

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RICHARD ARMSTRONG,

Plaintiff,

v.

VERIZON WIRELESS,

Defendant.

Case No. 3:23-cv-20

JUDGE WALTER H. RICE

DECISION AND ENTRY ADOPTING THE UNITED STATES MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #20), DISMISSING THE CASE FOR LACK OF SUBJECT MATTER JURISDICTION; PLAINTIFF DENIED RIGHT TO APPEAL IN FORMA PAUPERIS; JUDGEMENT TO ENTER IN FAVOR OF DEFENDANT AND AGAINST PLAINTIFF; TERMINATION ENTRY

This matter is before the Court on Magistrate Judge Caroline H. Gentry's Report and Recommendations, Doc. #8, filed on June 12, 2023. Pursuant to Fed. R. Civ. P. 72(b), objections to the proposed recommendations must be filed within fourteen (14) days after their receipt. The deadline for filing objections on the Report and Recommendation, Doc. #8, was June 26, 2023, and no timely objections were filed. Plaintiff's lone subsequent filing, titled Case and Evidence Review, Doc. #9,¹ was filed on September 11, 2023, long after the deadline for

¹ When filing his Case and Evidence Review, Doc. #9, Plaintiff included an exhibit that appears to raise a separate complaint about something of his that was stolen and traced to a pawn shop by one Officer—now Detective—McGuire, and Plaintiff seems to allege Detective McGuire failed to reclaim and return it to him following its discovery. Doc. ##9, 9-1 at PageID #53. As this matter was filed *pro se*, it is unclear if Plaintiff is attempting to file an additional or supplemental complaint

objections, and did not address anything in the Report and Recommendations. Doc. #8.

This Court has reviewed said report and recommendations, the applicable law, and has conducted a thorough *de novo* review as well of the entire file, including the complaint and related filings. Doc. ##1, 6. For the reasons set forth therein, the Court ADOPTS the Report and Recommendations, Doc. #8, and, in doing so, dismisses the case for a lack of subject matter jurisdiction.

Given that the Court's decision herein will not be debatable among reasonable jurists, and, further, given that any appeal would be objectively frivolous, Plaintiff is denied leave to appeal *in forma pauperis*. See U.S.C. § 1915(a)(3).

Judgement is to be entered in favor of Defendant and against Plaintiff. The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: October 24, 2023



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

against Detective McGuire under 42 U.S.C. § 1983. If that is the case, Plaintiff is welcome to file a new complaint under a new case number, subject to the restrictions of Fed. R. Civ. P. 11.